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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,309	03/30/2000	Jeng-Jye Shau	SHAU-2k01	8163

7590 08/11/2003

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EXAMINER
HARVEY, DAVID E

ART UNIT	PAPER NUMBER
2614	5

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/539,309	SHAU, JENG-JYE
	Examiner	Art Unit
	DAVID E HARVEY	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 May 2003* .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-49* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

1. The examiner previously of record, Mr. Linus H. Lo, has left the Office. The instant application has been reassigned to David E. Harvey.

2. The examiner notes that in the response filed 5/21/2003, applicant asked that 1-33 and 38-49 be withdrawn from consideration. The response did not ask for these claims to be canceled. Therefor these claims are still considered to be active.

3. The examiner notes that the disclosure as originally filed appears to have disclosed the following:

I. Various different methods of transferring data through existing TV channels, including:

1. An image dependent "low contrast area data transfer technique" (LCDT) which includes the following special variations:

a. "Black level data transfer" (BLDT);

b. "White level data transfer" (WLDT); and

c. "Blank level data transfer" (KLDT);

2. An image independent "color table data transfer" (CTDT) technique;

3. An image independent "pre-defined object data transfer" (PODT) technique;

4. An image independent "small object data transfer" (SODT) technique;

5. An image independent "invisible frame data transfer" (IFDT) technique; and

6) An image independent "dedicated object data transfer" (DODT) technique; and

II. A communication system (e.g. figure 8(a)) which includes information using devices (803) which can be implemented:

1. For game applications (figure 9(a)); and

2. For stock market applications (figure 10).

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-45, drawn to methods of transferring data through a TV channel, classified in class 348, subclass 473+.

II. Claims 46-49, drawn to interactive communication systems, classified in class 725, subclass 105+.

5. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown

to be separately usable. In the instant case, invention the methods of transferring data that are recited in claims 1-45 has separate utility such as transferring data through a TV channel different from that represented by figures 8(a), 9(a) and 10 (i.e. a standard TV broadcast system). See MPEP § 806.05(d).

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. IF applicant's elect "Invention I" from the above, then they are further required to elect a species/sub-species as addressed in the following:

This application contains claims directed to the following patentably distinct species of the claimed invention:

1. An image dependent "low contrast area data transfer technique" (LCDT) which includes the following special variations:

2. An image independent "color table data transfer" (CTDT) technique;

3. An image independent "pre-defined object data transfer" (PODT) technique;

4. An image independent "small object data transfer" (SODT) technique;

5. An image independent "invisible frame data transfer" (IFDT) technique; and

6. An image independent "dedicated object data transfer" (DODT) technique.

Should applicant elect the species "1." Above, then applicant is required to further elect one of the following sub-species:

a. "Black level data transfer" (BLDT);

b. "White level data transfer" (WLDT); and

c. "Blank level data transfer" (KLDT);

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species/sub-species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species/sub-species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species and subspecies which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. IF applicant's elect "Invention II" from the above, then they are further required to elect a species/sub-species as addressed in the following:

This application contains claims directed to the following patentably distinct species of the claimed invention:

1. The "game" application embodiment [figure 9(a)] of the communication system [figure 8(a)]; and

2. The "stock" application embodiment [figure 10] of the communication system [figure 8(a)].

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species/sub-species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species/sub-species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species and

subspecies which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E HARVEY whose telephone number is (703) 305-4365. The examiner can normally be reached on M-F from 9 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on (703) 305-4795. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

DAVID E HARVEY
Primary Examiner
Art Unit 2614